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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,984	10/16/2003	James O. Robarts	MS1-0104USC1	8125

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EXAMINER

BROWN, RUEBEN M

ART UNIT	PAPER NUMBER
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2424

NOTIFICATION DATE	DELIVERY MODE
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08/21/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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lhptoms@leehayes.com

Office Action Summary	Application No. 10/686,984	Applicant(s) ROBARTS ET AL.	
	Examiner REUBEN M. BROWN	Art Unit 2424	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 April 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>See Continuation Sheet</u> . | 6) <input type="checkbox"/> Other: _____ |

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :8/12/09;4/16/09;1/12/09;10/13/09;8/6/09;4/22/09;5/3/06;9/22/06.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 8 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Considering claim 8, the instant claim recites, 'An electronic program guide..., comprising, a user interface...; a find window...; search parameters...; an advanced find window...; a unified query function. The claimed electronic program guide is a software application that is programmed to perform certain functions, and thus represents functional descriptive material. Software applications not claimed as embodied in a computer-readable media are descriptive material per se and are not statutory because they are not capable of causing functional change in the computer.

Claims directed to software, stored on a computer readable medium, (as supported by the specification) are considered statutory.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 & 4-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Legall, (U.S. Pat # 6,005,565), in view of Maze, (U.S. Pat # 6,216,264) and Coden, (U.S. Pat # 5,873,080).

Considering claim 1, the claimed method for operating an EPG displaying TV program information, comprising the steps of;

'displaying a user interface indicating TV programming information comprising a plurality of channels, time periods and programs, wherein a user can realize when and what channel a program is offered', is met by the disclosure of the program guide shown in Legall, Fig. 3B.

'generating a query in response to activation by the user of a query generating button defined by the user interface, wherein the activation of the query generating button results in the display of a find window of the user interface to assist the user in creating a query, such that the

query defines a search of an EPG database', Legall teaches a find window in Fig. 3B, in the form of the Power Search window that assists the user in creating a query. As for the specifics of 'the activation of query generating button results in the display of a find window of the user interface...', as pointed out above, Legall shows the find window (Power Search), but does not explicitly show what the user selects in order to get to the Power Search window. Official Notice is taken that at the time the invention was made, providing a selectable icon or button on a user interface, the activation of which brings up another interactive window was old in the art of graphical user interface at the time the invention was made. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Legall with the feature of a button or icon on the main user interface of Legall, which when activated provides the Power Search interface of Fig. 3B, at least for the desirable advantage of providing the use with a main EPG from which the user can branch off into other desired tasks.

'wherein the user may save the query by creating a query button defined on the user interface, and wherein the query button modifies the user interface', Legall teaches that the user may save their search logs, which reads on the claimed subject matter, see col. 3, lines 5-7; col. 3, lines 50-53.

'receiving search parameters from the find window, the parameters comprising genre; network; rating; and program name'; in the Power Search window of Legall, see Fig. 3B & col. 3, lines 27-48, the user may select the category; rating; web search engine and source (i.e., web and/or EPG), which meets the claimed subject matter, except for the claimed program name.

However, Legall goes on to teach that by typing, the user can enter text such as a program name, see col. 3, lines 61-67.

‘displaying an advanced find window in response to selection of an advanced find window, which allows searching by additional search parameters including keywords, such that the advanced find window defines a plurality of user created searches, such that a user created search may be saved by the user associating a tabbed folder, which may be created and removed’; even though Legall teaches that the user may perform a keyword search, the reference does not discuss the claimed feature of creating tabbed folders, nevertheless Maze, in the same field of endeavor provides a teaching of a plurality of tabbed search folders (i.e., search Gophers, disclosed as Watchdog 1- Watchdog 4, etc.). The discussion in Maze points out that user may create a keyword query of at least programs names, which also meets the claimed subject matter. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Legall with the feature discussed in Maze of search Gophers, which are tabbed search logs, customized by the user, for the desirable benefit of saving the search queries in a more organized manner.

‘querying the EPG using filters, comprising finding program types desired by the user; removing program types not desired by the user’, reads on the discussion in Legall that teaches after a search has been conducted, the user can perform a further filter of query results, col. 3, lines 45-67 thru col. 4, lines 1-15; Fig. 3C; Fig. 4.

'unifying plural queries configured to combine queries of plural individuals into unified queries, which are combined by performing a Boolean AND or OR function', even though Legall teaches that a search result may be filtered and Maze teaches multiple different searches (which may be individuals) the references do not teach that the individual search results may be 'unified'. However Coden, in the same field of database searching strategies, teaches the well known technique of merging one or more search results from one or more database(s), see col. 8, lines 21-65. In particular, Coden teaches that it would be beneficial to merge search results from different search engines using Boolean operators, "AND" or "OR". It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify the combination of Legall & Maze, with the feature of combining search results using Boolean operators, at least for the desirable benefit of a more customized and narrow search, as taught by Coden, see col. 2, lines 37-67 thru col. 3, lines 1-42.

Considering claims 4-6, Legall (col. 2, lines 7-32) & Maze (col. 2, lines 7-20; col. 4, lines 31-55) teaches that the system operates on a computerized system with a CPU and thus meets the claimed subject matter, *'a computer readable medium and executable with a processor to perform the steps'*, see col. 3, lines 55-62.

Considering claim 7, the claimed steps of a method for operating an EPG corresponds with subject matter of claim 1, and is likewise analyzed. The additional feature of saving the query in *'a hierarchic query structure'*, reads on discussion in Legall of the saving and maintaining of filter logs.

Considering claim 8, the claimed EPG displaying TV programming, comprises elements that correspond directly with subject matter mentioned above in the rejection of claims 1 & 7, and is likewise analyzed.

4. Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Legall, Maze & Coden, further in view of Bedard, (U.S. Pat # 5,801,747).

Considering claims 2-3, Legall teaches that the results of the search may be presented to the user as a list of channels in the EPG, but does not discuss ranking of any kind, (fig. 2; Fig. 6; col. 4, lines 48-65). However, Bedard which is in the same field of endeavor teaches, placing the entries 202 in an order based on their viewed time, which would inherently place the higher percentage channels in one place, and the lower percentage channels, in another place, see col. 6. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Legall with the feature of displaying list of TV channels according to their ranking in terms of time viewed, as taught by Bedard, since this would be the channel(s) most likely to be viewed and thus the user would have easier access.

Regarding claim 3, the claimed feature of, '*a threshold of time*', reads on Bedard, col. 3, lines 62-67 thru col. 4, lines 1-15.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

A) Yoshinobu Teaches a search button (FIND) that allow the subscribers to search the EPG using various parameters, see Figs. 15-17; col. 21, lines 40-65.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any response to this action should be mailed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

or faxed to:

(571) 273-8300, (for formal communications intended for entry)

Or:

(571) 273-7290 (for informal or draft communications, please label
"PROPOSED" or "DRAFT")

Any inquiry concerning this communication or earlier communications from the examiner should be directed to REUBEN M. BROWN M. Brown whose telephone number is (571) 272-7290. The examiner can normally be reached on M-F(8:30-6:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on (571) 272-7331. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communications and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Christopher Kelley/
Supervisory Patent Examiner, Art Unit 2424